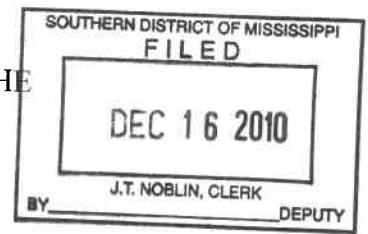


IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION



RALPH PAUL WEAVER, JR. d/b/a
GUNS & AMMO

PETITIONER

v.

Civil Action No.: 1:10cv574 LG-RHW

DAVID K. STROTHEIDE
Director of Industry Operations,
Bureau of Alcohol Tobacco
Firearms and Explosives,

RESPONDENT

VERIFIED PETITION FOR JUDICIAL REVIEW

COMES NOW, Petitioner, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, by and through counsel, and files his Petition for Judicial Review of Respondent's October 26, 2010 Final Notice of Revocation of Firearms License, states unto the Court the following, to-wit:

1. This is a petition for *de novo* judicial review of the revocation of a federal license as a dealer in firearms other than destructive devices, and this action is being timely brought pursuant to 18 U.S.C. 923(f)(3) and its related regulations.

PARTIES

2. Ralph Paul Weaver, Jr. is an individual doing business under the trade name Guns & Ammo, with his principal place of business in Moss Point, Mississippi. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, has been for many years a federally licensed firearms dealer who owns and operates a retail firearms store.

3. Respondent, David K. Strotheide, (hereinafter "DIO Strotheide") is the Director of Industry Operations of the New Orleans Field Division of the Bureau of Alcohol Tobacco Firearms

and Explosives (hereinafter "ATF"). Guns & Ammo is within the jurisdiction of the New Orleans Field Division and DIO Strotheide.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. 1331, as it arises under the Constitution and laws of the United States, specifically 18 U.S.C. 923(f)(3), et seq, and its related regulations.

5. Venue is proper in the Southern District of Mississippi, as Ralph Paul Weaver, Jr.'s business, Guns & Ammo, is located within the district in Moss Point, Mississippi.

FACTS

6. A Notice of Revocation of Firearms License dated March 10, 2010 was sent by ATF notifying Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, that his federal firearms license as a dealer in firearms other than destructive devices ("FFL") was being revoked.

7. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo timely requested an administrative hearing with respect to the revocation of its FFL pursuant to 18 U.S.C. 923(f)(2), and a hearing was held in Gulfport, Mississippi on July 28, 2010.

8. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, received a Final Notice of Revocation of Firearms License from DIO Strotheide (the "Final Notice"), issued October 26, 2010. The Final Notice revoked Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, FFL effective December 28, 2010.

9. The Final Notice sets forth certain purported findings of fact and conclusions of law regarding DIO Strotheide's revocation of Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, FFL with respect to, among other things, alleged violations of the Gun Control Act and whether such alleged violations were committed by Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, willfully. Pursuant to

ATF policy, and applicable law, revocations should only be undertaken for willful violations that could affect public safety or hamper ATF's ability to reduce violent crime.

COUNT I
A&D Records

10. Paragraphs 1-9 are incorporated as if restated in full herein.

11. In the Final Notice, DIO Strotheide found that Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, willfully violated 18 U.S.C. 922(m), 18 U.S.C. 923(g)(1)(A), and 27 C.F.R. 478.125(e) for not making timely or complete entries in the required records regarding the acquisition and disposition of firearms. See Violation 1.

12. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, did not willfully violate 18 U.S.C. 922(m), 18 U.S.C. 923(g)(1)(A), 27 C.F.R. 478.124(a), or 27 C.F.R. 478.125(e), because to the extent that any violations occurred, they were inadvertent, not intentional, did not occur in deliberate disregard for and/or in plain indifference to a known legal obligation. Moreover, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, has procedures in place to avoid such violations, and the vast majority of the thousands of firearms acquired and disposed of by Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, were timely and properly recorded.

13. While the potential for such was present, Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, failures to timely or completely record information in the A&D records fortunately did not either affect public safety or hamper ATF's ability to reduce violent crime. Moreover, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, has sufficient procedures in place to ensure that its continuing operations do not constitute a threat to public safety

COUNT II
Prohibited Purchaser

14. Paragraphs 1-13 are incorporated as if restated in full herein.

15. In the Final Notice, DIO Strotheide found that Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, willfully violated 18 U.S.C. 922(b)(2), 923(g)(1)(A), and 27 C.F.R. 478.99(c) by transferring a firearm to a person who the licensee had reasonable cause to believe was prohibited from purchasing a firearm. See Violation 2.

16. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo did not willfully violate 27 C.F.R. 478.99(c), because to the extent that any violations occurred, they were inadvertent, not intentional, did not occur in deliberate disregard for and/or in plain indifference to a known legal obligation. Moreover, Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, has procedures in place to avoid such violations, and the vast majority of the thousands of firearms transactions processed by Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, proceeded without any such issues.

COUNT III
NICS Response

17. Paragraphs 1-16 are incorporated as if restated in full herein.

18. In the Final Notice, DIO Strotheide found that Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, willfully violated 18 U.S.C. 922(t), 923(g)(1)(a), and 27 C.F.R. 478.102, for allowing a firearm to be transferred to an unlicensed individual without first contacting NICS and waiting until a NICS response was received, or when no response was received, waiting three business days after initial NICS contact. See Violation 3.

19. Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, did not willfully violate 18 U.S.C. 922(t), 923(g)(1)(a), and 27 C.F.R. 478.102, because to the extent that any violations occurred, they

were inadvertent, not intentional, did not occur in deliberate disregard for and/or in plain indifference to a known legal obligation. Moreover, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, has procedures in place to avoid such violations, and the vast majority of the thousands of firearms acquired and disposed of by Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, were timely and properly recorded.

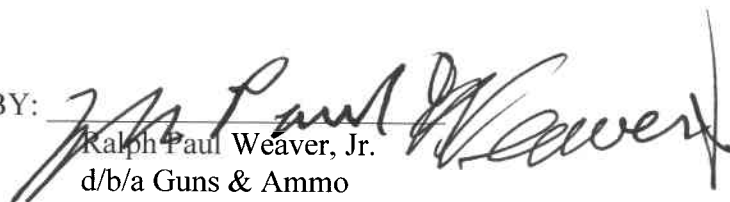
20. While the potential for such was present, Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, failures to timely transfer firearms fortunately did not either affect public safety or hamper ATF's ability to reduce violent crime. Moreover, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, has sufficient procedures in place to ensure that its continuing operations do not constitute a threat to public safety.

PRAYER FOR RELIEF

WHEREFORE, Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, respectfully requests that this Honorable Court enter judgment in its favor and against DIO Strotheide, declare that sufficient grounds for revoking Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, FFL do not exist, order that the Final Notice is rescinded and that Ralph Paul Weaver, Jr.'s, d/b/a Guns & Ammo, FFL is reinstated, award costs and reasonable attorney fees, and award any further relief deemed just and appropriate.

RESPECTFULLY SUBMITTED, this the 16th day of December, 2010.

BY:


Ralph Paul Weaver, Jr.
d/b/a Guns & Ammo

STATE OF MISSISSIPPI

COUNTY OF HARRISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the aforesaid County and State, on this the 16th day of December, 2010, within my jurisdiction, the within named Ralph Paul Weaver, Jr., d/b/a Guns & Ammo, who acknowledged that he is owner and operator of Guns & Ammo, and that he executed the above and foregoing instrument.



Robin D. Butler
NOTARY PUBLIC

My Commission Expires: _____

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